

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATE OF AMERICA

V.

Docket No. 13-CR-10048-FDS

KING BELIN

Defendant

MEMORANDUM OF LAW WITH RESPECT TO STATUS OF DEFENSE COUNSEL

NOW COMES the undersigned counsel, Attorney for the defendant King Belin, and submits this Memorandum of Law on the issue of status of defense counsel.

DEFENSE COUNSEL ROLE AND OBLIGATIONS

The undersigned counsel submits this memorandum for the Court to consider with respect to the hearing on the status of counsel which began on December 11, 2014. The undersigned counsel submits that the issues addressed at that hearing still exist at this time. The undersigned counsel submits that his position with respect to deciding matters of strategy at trial is drawn from Massachusetts Rule of Professional Conduct 1.2(a) (which states, in part, that “[a] lawyer shall abide by a client’s decision whether to accept an offer of settlement of a matter. In a criminal case, the lawyer shall abide by the clients decision, after consultation with the lawyer, as to a plea to be entered, whether to waive jury trial, and whether the client will testify.”), the American Bar Association Criminal Justice Section Standards as to Defense Function Standard 4-5.2 (“Control and Direction of the Case”)(which expands upon client decisions to include whether to appeal and also delineates that strategic and tactical decisions should be made by defense counsel), an article drafted by Bar Counsel Arnold Rosenfeld in April, 1999, entitled Defense Ethical Obligations of Criminal Defense Counsel, consultation by the undersigned counsel on the issue with the Federal Defenders Office and the undersigned counsel’s understanding , based upon 28 years of criminal defense practice, as to the decisions to be made by the client and decisions to be made by defense counsel. All of the above stand for the proposition that matters of strategy, including which defenses to present, direction of cross examination and witnesses to present, are decisions made by defense counsel, in consultation “with the client where feasible and appropriate” (ABA Standard 4-5.2(b)), while decisions as to

whether to enter a guilty plea, whether to proceed to trial, whether to waive jury trial, whether to testify and whether to appeal are left to the client to make after consulting with defense counsel.

Respectfully submitted,
King Belin,
By His Attorney,

DATE: December 18, 2014

/s/ Paul J. Garrity
Paul J. Garrity
Bar No. 555976
14 Londonderry Road
Londonderry, NH 03053
603-434-4106

CERTIFICATE OF SERVICE

I, Paul J. Garrity, hereby certify that on this 18th day of December, 2014, a copy of the within Memorandum of Law with Respect to Defense Counsel has been efiled to all parties of record and mailed, postage prepaid to Belin King.

/s/ Paul J. Garrity
Paul J. Garrity